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CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON, FL 33487

EXAMINER

CHOUDHURY, AZIZUL Q

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VIRINDER M. BATRA, VALERIE M. BENNETT,
ANDREW N. CAPELLA, XIAOYAN CHEN, XIAO CHENG DING,
PETER R. GAMBLE, and STEVEN M. MILLER

Appeal 2009-006395
Application 10/077,012
Technology Center 2400

Before JOHN A. JEFFERY, JOSEPH L. DIXON, and THU A. DANG,
Administrative Patent Judges.

JEFFERY, *Administrative Patent Judge.*

DECISION ON APPEAL¹

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-6. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants invented a location-based server adapter interface and method of processing requests from a client for location-based services. *See generally* Spec. 5. Claim 1 is reproduced below with the key disputed limitations emphasized:

1. A method of processing requests from location-based service applications for location-based services provided by *a plurality of disparate location-based service providers, different ones of said plurality of disparate location-based service providers specifying different formats for receiving said requests*, comprising the steps of the location service:

receiving requests for location based-services;

determining from each said request a particular location-based service provider which can service said request;

specifically formatting each said request according to a specific format specified by said particular location-based service provider;

uniformly formatting each result set produced from corresponding ones of said requests; and

forwarding said uniformly formatted result sets to the location-based service applications.

The Examiner relies on the following as evidence of unpatentability:

Requena	US 2002/0126701 A1	Sept. 12, 2002 (filed Oct. 30, 2001)
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Kang-Jun Lee et al., *Development of an XML Data Provider Supporting the OpenGIS Specification*, 4 IEEE 2001 Int'l Geoscience and Remote Sensing Symp. 1936-38 (2001) ("Lee").

THE REJECTION

The Examiner rejected claims 1-6 under 35 U.S.C. § 103(a) as unpatentable over Requena and Lee. Ans. 4-6.²

CLAIM GROUPINGS

Appellants state claims 2-6 stand or fall with claim 1 (App. Br. 4), but separately argue independent claim 3 (*see* App. Br. 8). Accordingly, we group the claims as follows: (1) claims 1, 2, 5, and 6, and (2) claims 3 and 4. Accordingly, we select claims 1 and 3 as representative of each group. *See* 37 C.F.R. § 41.37(c)(1)(vii).

CONTENTIONS

Regarding representative independent claim 1, the Examiner finds that Requena discloses every recited feature, except for explicitly teaching a uniform format for the result sets. Ans. 4-5. The Examiner relies on Lee to teach this missing limitation, and for a motivation to include a uniform format so various formatted data can operate with each other. *See* Ans. 5. Appellants argue that Requena does not disclose determining a particular location-based service from a request, but rather from user information. App. Br. 6; Reply Br. 4-5. Appellants also assert that: (a) Requena does not disclose different location-based service providers specify different formats for receiving request because Requena discloses a single format (App. Br. 7), and (b) such a feature is not inherent in Requena (*see* App. Br. 8).

² Throughout this opinion, we refer to (1) the Appeal Brief filed March 12, 2008 and supplemented April 3, 2008; (2) the Examiner's Answer mailed June 11, 2008; and (3) the Reply Brief filed August 8, 2008.

Appellants further contend that Lee formats the request uniformly and is opposite of claim 1 which requires specially formatting each request. App. Br. 9-10. Finally, Appellants argue that there is no rationale to modify Requena using Lee's teaching because Requena already teaches using eXtensible Markup Language (XML) and Geography Markup Language (GML) in a Geographical Information System (GIS). App. Br. 10.

Regarding independent claim 3, Appellants contend that the Examiner fails to support the position that Requena's data is converted when transferred between networks and thus fails to disclose a uniform input interface adapted to be connected to different service adapters specifying different formats for receiving requests. App. Br. 8.

The issues before us, then, are as follows:

ISSUES

(1) Under § 103, has the Examiner erred in rejecting claim 1 by finding that Requena and Lee collectively would have taught or suggested:

(a) determining from a request a particular location-based service provider which can service the request;

(b) specifically formatting each request according to a specific format specified by the location-based service provider; and

(c) uniformly formatting each result set produced from a corresponding one of the requests?

(2) Under § 103, has the Examiner erred in rejecting claim 3 by finding that Requena and Lee collectively would have taught or suggested a uniform input interface adapted to be connected to different service adapters specifying different formats for receiving inputs?

FINDINGS OF FACT

1. The Specification discusses different types of requests, including a network request 125, a “WHEREAMI?” request, and a specifically formatted request 135. Spec 8-9.

2. Requena discloses a messaging and presence service system that has multiple users (e.g., 2, 8), central servers (e.g., 6, 16), presence servers (e.g., 4, 10, 12, 14, 16). Requena states a message can be either a request or a response. Figures 2 through 4 show a session initiation protocol (SIP) REGISTER message, a SIP REGISTER request, and an INVITE message respectively. Requena, ¶¶ 0043-45, 0061-63, 0075, 0210, 0212; Figs. 1-4.

3. Requena states that the message’s content can have a specific format, such as Session Description Protocol (SDP), text, or XML scripts. Requena, ¶¶ 0082-86.

4. Requena explains that all messages are coded and decoded using a standard coding mechanism, such as a text-based language (e.g., XML, GML). Requena, ¶¶ 0118-20.

5. Requena discloses registering and authenticating a mobile terminal when a new call arrives at the session manager for providing user identification information within the registration. A user registers³ his “situation” so to obtain a service suited to his actual location, and then requests a specific service with a response adapted to the user’s physical situation. The Call State Control Function (CSCF) accepts the registration and sends the User Information to a Home Subscriber Session (HSS) or a

³ Although Requena uses the term “resister” in this context (Requena, ¶ 0209), we presume that this is a typographical error, and that the term was intended to be “register.”

Presence Server. The user then issues an INVITE for opening a session for a Service Request. The CSCF receives the message and checks whether the user's information is either the HSS or Presence Server to see if the user has location information stored. If the location is stored, the CSCF makes a query to the Location Based Services server. Requena, ¶¶ 0187-88, 00204-15; Fig. 9.

6. Lee teaches using XML as a standard to describe web-based documents in a GIS having a GML specification. A XML data provider is an interface to standardize the documents from heterogeneous data sources. Lee, at 1936-37; Fig. 1.

ANALYSIS

Claims 1, 2, 5, and 6

We begin by construing a key disputed limitation of claim 1 which calls for, in pertinent part, “determining from each said request a particular location-based service provider which can service said request.” Claim 1 also recites these requests are “requests for location based-services.” While the Specification describes various requests, the disclosure does not define this term. *See* FF 1. Giving the term “request” its broadest reasonable construction as it would be interpreted by an ordinarily skilled artisan, a “request” includes a message or inquiry relating to obtaining location based-services. *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (internal citations omitted). Moreover, the phrase, “determining from each said request” requires no more than the request is ultimately used to determine a particular location-based service provider.

Requena discloses various steps taken to obtain a service suited to the user's actual location or a location-based service. *See* FF 5. As part of this process, Requena discloses various requests, including the CSCF receiving a message (i.e., a service request) and checking user information in the HSS or Presence Server. *See id.* As this received message at the CSCF is a request for service or is used to obtain a location-based service (*see id.*), Requena discloses a request used to check whether certain information (i.e., a location) is stored in the HSS or Presence Server. *See id.* Based on this checking, Requena decides whether to request a service at a location-based service server (e.g., Location Based Services server). *See id.* That is, from this service request, Requena ultimately determines whether to request a location-based service from a location-based service provider that can service the request. We therefore find that Requena teaches determining from each location-based services request a particular location-based service provider which can service a request as recited in claim 1.

Additionally, Requena states a message's content has a specific format, such as SDP, text, or XML. FF 3. Thus, Requena teaches specifically formatting each request according to a specific format and suggests that message's originator (e.g., a location-based service provider that provides a service message (*see* FF 5)) specifies this format and is capable of specifying a different specific format. While we agree with Appellants that the preamble of claim 1 is entitled to patentable weight (Reply Br. 5-6), we also find that phrase, "a plurality of disparate location-based service providers, different ones of said plurality of disparate location-based service providers specifying different formats for receiving requests," in preamble of claim 1 is an intended use limitation. Such language covers

any structure capable of performing the recited function. *See In re Swinehart*, 439 F.2d 210, 213 (CCPA 1971). As stated above, Requena teaches and suggests location-based service providers capable of specifying different formats. Moreover, we note that the body of claim 1 recites “a particular location-based service provider” rather than referring back to the different location-based service providers in claim preamble. The location-based service provider recited in the body of claim 1 does not therefore have to be one of the providers specifying different formats recited in the preamble.

As Appellants indicate (App. Br. 10), Requena also states all messages are also coded and decoded using a coding mechanism, such as a text-based language (e.g., XML or GML) (FF 4)—a teaching that at least suggests uniform formatting. However, claim 1 includes the open-ended transitional phrase, “comprising,” that does not exclude additional, unrecited steps. *See Mars Inc. v. H.J. Heinz Co.*, 377 F.3d 1369, 1376 (Fed. Cir. 2004). Requena can thus both specifically and uniformly format messages and still meet the limitations of claim 1. Moreover, since messages include responses (FF 2) (i.e., result sets), we find that Requena also teaches “uniformly formatting each result set produced from” the requests as recited in claim 1.

Although we find that Lee is cumulative in this regard, we nevertheless are not persuaded of error in the Examiner’s position (Ans. 9) that, in light of Lee, it would have been obvious to use XML to uniformly format messages generally, including responses to requests. Although cumulative, Lee nonetheless bolsters the notion that Requena’s use of XML to uniformly format messages would have been obvious.

Finally, regarding Appellants' assertions that the Examiner fails to comply with the Manual of Patent Examining Procedure (MPEP) § 1207.02 (App. Br. 4; Reply Br. 2-3), we note such issues are petitionable matters under 37 C.F.R. § 1.181 and will not be addressed on appeal by the Board. *See* MPEP §§ 1002 and 1201.

We are therefore not persuaded that the Examiner erred in rejecting (1) independent claim 1; (2) independent claim 5 which recites commensurate limitations; and (3) dependent claims 2 and 6 for similar reasons.

Claims 3 and 4

Based on the record before us, we find no error in the Examiner's obviousness rejection of representative claim 3 which calls for, in pertinent part, a uniform input interface adapted to be connected to different service adapters specifying different formats for receiving inputs. First, we are not persuaded of error in the Examiner's rejection for all limitations commensurate in scope with claim 1. Second, despite Appellants' contention (App. Br. 8), we note that the Examiner does not rely on inherency to reject claim 3. *See* Ans. 4. Third, as explained above, Requena at least suggests an interface that is adapted to be connected to different service adapters (e.g., location-based service servers) specifying different formats for receiving inputs. *See* FF 3, 5. Fourth, Requena also discloses another interface to request location-based services that uses a uniform format, including XML, independent of the specific format of a server and thus is adapted to be connected to different service adapters specifying different formats. *See* FF 4.

Additionally, Lee teaches a XML data provider as the interface to standardize or format uniformly messages in a GIS environment. *See* FF 6. Substituting Lee's uniform input interface (FF 6) for Requena's uniform coding mechanism (FF 3) yields nothing more than a predictable result of providing Requena's coding scheme with an uniform input interface adapted to be connected to different service adapters specifying different formats for receiving inputs as recited in claim 3. *See KSR Int'l Co v. Teleflex Inc.*, 550 U.S. 398, 416 (2007). This interface improves upon Requena's coding scheme and provides a rationale for combining Lee with Requena.

For the foregoing reasons, Appellants have not shown error in the rejection of independent claim 3 or dependent claim 4 for similar reasons.

CONCLUSION

The Examiner did not erred in rejecting claims 1-6 under § 103.

ORDER

The Examiner's decision rejecting claims 1-6 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Appeal 2009-006395
Application 10/077,012

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CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BACA RATON, FL 33487